

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JOSE ALBERTO CAMPOS RODRIGUEZ,	Case No. 3:14-cv-00691-MMD-WGC
Petitioner,	ORDER
v.	
ISIDRO BACA, et al.,	
Respondents.	

Petitioner, a Nevada prisoner, has submitted in *pro se* a document entitled Tort Claim Supported by Affidavit (dkt. no. 1-1). In portions of the document he refers to it as a petition for a writ of habeas corpus. *Id.* However, this document does not present any claims that challenge the validity of his conviction or sentence. Moreover, petitioner appears to mainly claim that prison personnel searched his cell and confiscated legal materials in violation of his Fourth Amendment rights. Such claim may implicate his rights under 42 U.S.C. § 1983, rather than his habeas rights. See, e.g., *Wilkinson v. Dotson*, 544 U.S. 74, 86 (2005). He has also filed an incomplete application to proceed *in forma pauperis* because the financial certificate is missing (see dkt. no. 1). Accordingly, this matter has not been properly commenced under 28 U.S.C. § 1915(a)(2) and Local Rule LSR1-2, and fails to state a claim sounding in habeas corpus.

1 Thus, the present action will be dismissed without prejudice to the filing of a new
2 action with either the full filing fee¹ or a completed application to proceed *in forma*
3 *pauperis* on the proper form with both an inmate account statement for the past six (6)
4 months and a properly executed financial certificate.

5 It is therefore ordered that this action is dismissed without prejudice to the filing
6 of a new action with either the full filing fee or a properly completed application form to
7 proceed *in forma pauperis*.


8 It is further ordered that the application to proceed *in forma pauperis* (dkt. no. 1)
9 is denied as moot.

10 It is further ordered that a certificate of appealability is denied, as jurists of reason
11 would not find the Court's dismissal of this improperly commenced action without
12 prejudice to be debatable or incorrect.

13 It is further ordered that the Clerk shall send petitioner two (2) copies each of an
14 application form to proceed *in forma pauperis* for incarcerated persons and a Civil
15 Rights Complaint pursuant to 42 U.S.C. § 1983 form, one (1) copy of the instructions for
16 each form, and a copy of the papers that he submitted in this action.

17 It is further ordered that the Clerk shall enter judgment accordingly and close this
18 case.

19 DATED THIS 6th day of February 2015.

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21 
22 MIRANDA M. DU
23 UNITED STATES DISTRICT JUDGE
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28 ¹The filing fee for a civil rights complaint pursuant to 42 U.S.C. § 1983 is \$350.